IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.13397 of 2007

Dated: July 24, 2007

Between:

Sri N. Jaya Kumar, S/o. late N. Narayana Pillai,
Aged about 52 years, Occ: Scientific Officer,
R/o. Qtr. No.D-3, HWPM Colony,
P.O. Asapuram, Khammam District – 507 116.

… Petitioner

And

The J.W.O., WO IC P & WW (Wel)
For Air Force Officer Commanding,
Air Force Record Office,
Subroto Park, New Delhi – 110 010,
And others.

… Respondents

Order:

Petitioner, an Ex-serviceman who served the Indian Air Force, has filed this writ petition seeking Mandamus to direct the respondents to consider the representation dated 15-06-2007 submitted by him and

issue C.A.P. Certificate to his son for the purpose of claiming a seat in Engineering course in the quota reserved for Children of Armed Personnel.

2. Heard learned counsel for the petitioner, Mr. A. Rajasekhar Reddy, learned Government Pleader for Home and Mr. K. Rathangapani Reddy for respondents 1 to 3 respectively.

3. Petitioner, who is a native of Kerala, claims to have served the Indian Air Force (IAF) from 22-11-1973 to 30-11-1998 and was discharged from service in the year 1988. It is stated that after his discharge from IAF, he joined the Department of Atomic Energy and was posted at Heavy Water Plant, Manuguru, Khammam District as Scientific Officer. The case of the petitioner is that while he was working at the aforesaid place, his son was born and he had his entire education in the State of Andhra Pradesh. It is stated that he passed his X class through CBSE from Central School, Aswapuram, completed his Intermediate from State Board of Secondary Education, A.P., appeared for EAMCET-2007 and secured rank of '49781'. Petitioner states that the Zilla Sainik Welfare Officer, Khammam has given him Ex-serviceman card and when he had requested the Zilla Sainik Welfare Officer to issue C.A.P. Certificate for his son, he was advised to approach the second respondent in view of Memo No.13891/Admn/2007-S1 dated 19-01-2007. The said memo was issued by the Directorate of Sainik Welfare instructing all the Zilla Sainik Welfare Officers in the State of Andhra Pradesh to issue Children of Armed Personnel Certificate only to the children of Armed Forces who are domiciles of Andhra Pradesh. In the said Memo, the term 'Native' has been clarified, which reads as under:

> " Native means Ex-servicemen and serving Armed Forces (Indian Army, Indian Air Force and Indian

> Navy) who have represented the State of Andhra Pradesh at the time of joining the Armed Forces by declaring a place in Andhra Pradesh as their permanent home address".

4. Learned counsel for the petitioner contends that as the petitioner's son had his school education and Intermediate in Andhra Pradesh, he is a local candidate. She further contends that the petitioner was registered with District Sainik Welfare Board, Khammam and was issued identity card bearing No. AP-05/000948 and the same will prove that the petitioner and his son are permanent residents of Khammam District and, therefore, petitioner's son is entitled for admission in the quota reserved for Children of Armed Personnel.

5. Respondents have filed counter affidavit stating that petitioner's son is eligible to appear in EAMCET as a resident of Andhra Pradesh by virtue of the Presidential Order, however the benefit of C.A.P. is given only to the children of Ex-servicemen who are domiciles of Andhra Pradesh. It is stated that petitioner was given an Ex-serviceman Identity Card by the Zilla Sainik Welfare Officer, Khammam District and the same has been issued to confer on him the status of an Ex-serviceman and the said card entitles him to various benefits and concessions; however, mere possession of Identity Card does not entitle the petitioner to claim benefit of C.A.P. for his son as the petitioner is not a domicile of Andhra Pradesh. Reliance has been placed by the respondents on a judgment of a Division Bench of this court in *W.A.Nos.951 and 952 of 2006* and they relied on the following observations in the said judgment:

> " The conditions contained in the prospectus (of NTR Health University, Vijayawada) are required to be read in

> conjunction with the instructions issued by Directorate General of Resettlement, Ministry of Defence, Govt. of India. Otherwise, the very object of providing benefits/concessions to the
> Ex-servicemen in the State in which they are the permanent residents would be likely to be defeated. If benefits are given to Ex-servicemen merely on the strength of their residence, there is a possibility of temporary residents who reside in the States other than their native state only on account of their employment, cornering benefits to the detriment of Ex-servicemen who are domicillaries of those States".

6. In this case, though the petitioner claims to have obtained Identity Card from Zilla Sainik Board, Khammam, but the fact remains that entries in the original Discharge Certificate reveal his permanent home address as that of Adimali of Kerala, and, only pursuant to his representation on 22-11-2006, changes were effected.

Mere residency de hors the entries in the Discharge Certificate cannot be taken into account for the purpose of availment of reservation, concessions or benefits from a particular State. Otherwise, wherever the defence personnel serve for a period of five years, they will become eligible in all such places for availing concessions/reservation. From various proceedings, it is clear that the benefit of reservation is extendable to the said category only in the State where they have domicile either by origin or by choice. In this case, it is not in dispute that by origin, the petitioner belongs to Kerala State and he has changed his permanent address only in the month of November, 2006. In that view of the matter, petitioner's son is not entitled for reservation and the claim for admission to Engineering course under CAP category is baseless. The judgment of the Division Bench of this court relied on by the respondents supports their case. Hence, no relief as sought for can be granted.

7. For the foregoing reasons, the writ petition is dismissed. No order as to costs.

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JUSTICE R. SUBHASH REDDY.

July 24, 2007
MRR